



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY GENERAL

Honorable O. Kennedy
County Attorney
Bee County
Beeville, Texas

Dear Sir:

Opinion No. 0-6597
Re: Interpretation of Article 3891 and Senate Bill No. 123, Regular Session, 49th Legislature, 1945.

Your letter of June 26, 1945, requesting an opinion of this department is, in part as follows:

"Bee County has a population of 16,481 inhabitants according to the 1940 Federal Census, and the county and precinct officers of said county are compensated on a fee basis.

"When the Commissioners' Court increases the compensation of said officials as authorized by the provisions of Senate Bill No. 123, Acts of the 49th Legislature, Regular Session, 1945, do the provisions of Article 3891, Vernon's Annotated Civil Statutes, relative to the 1/3 excess fees which are retained under said article still apply when the Court increases the compensation of said officials under S. B. No. 123?"

Senate Bill No. 123, Acts of the 49th Legislature, 1945, is an act amending Articles 3891, 3902, and Sections 13 and 15 of Article 3912e, V. A. C. S., allowing additional compensation for certain district officers, county and precinct officers and for deputies, clerks and assistants; repealing Section 2 of Article 3934.

Senate Bill No. 123 is in part as follows:

"Section 1. That Article 3891, Revised Civil Statutes of Texas, 1925, as amended, be and the same is hereby amended by adding thereto the following:

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"(a) The Commissioners' Court is hereby authorized, when in their judgment the financial condition of the county and the needs of the officers justify the increase, to enter an order increasing the compensation of the precinct, county and district officers in an additional amount not to exceed twenty-five (25%) per cent of the sum allowed under the law for the fiscal year of 1944, provided the total compensation authorized under the law for the fiscal year of 1944 did not exceed the sum of Thirty-six Hundred (\$3600.00) Dollars.'

"Sec. 2. That Article 3902, Revised Civil Statutes of Texas, 1925, as amended, be and the same is hereby amended by adding thereto the following:

"9. The Commissioners' Court is hereby authorized, when in their judgment the financial condition of the county and the needs of the deputies, assistants and clerks of any district, county or precinct officer justify the increase, to enter an order increasing the compensation of such deputy, assistant or clerk in an additional amount not to exceed twenty-five (25%) per cent of the sum allowed under the law for the fiscal year of 1944, provided the total compensation authorized under the law for the fiscal year of 1944 did not exceed Thirty-six Hundred (\$3600.00) Dollars.'

"Sec. 3. That Section 13 of Article 3912e, Revised Civil Statutes of Texas, 1925, as amended, be and the same is hereby amended by adding thereto the following:

"(e) The Commissioners' Court is hereby authorized, when in their judgment the financial condition of the county and the needs of the officers justify the increase, to enter an order increasing the compensation of the precinct, county and district officers in an additional amount not to exceed twenty-five (25%) per cent of the sum allowed under the law for the fiscal year of 1944, provided the total compensation authorized under the law for the fiscal year of 1944 did not exceed the sum of Thirty-six Hundred (\$3600.00) Dollars.'

"Sec. 4. That Section 15 of Article 3912e, Revised Civil Statutes of Texas, 1925, as amended, be and the same is hereby amended by adding thereto the following:

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"(b) The Commissioners' Court is hereby authorized, when in their judgment the financial condition of the county and the needs of the officers justify the increase, to enter an order increasing the compensation of the precinct, county and district officers in an additional amount not to exceed twenty-five (25%) per cent of the sum allowed under the law for the fiscal year of 1944, provided the total compensation authorized under the law for the fiscal year of 1944 did not exceed the sum of Thirty-six Hundred (\$3600.00) Dollars."

"Sec. 5. That Section 2 of Article 3934, Revised Civil Statutes of Texas, 1925, be and the same is hereby in all things repealed; and all laws or parts of laws in conflict with the provisions of this Act are hereby repealed insofar as they conflict."

In our Opinion No. O-6592, a copy of which is hereto attached, it is stated:

"The maximum ex-officio compensation which may be allowed said Sheriff is any sum which, when added to other compensation and excess fees allowed to be retained by him under said Articles 3883 and 3891, does not cause such officer to receive a total compensation in excess of Three Thousand Seven Hundred and Fifty Dollars (\$3,750.00) per year. In no event could the fees of office and ex-officio compensation retained by him exceed the maximum of Three Thousand Seven Hundred and Fifty Dollars (\$3,750.00). In other words, the maximum amount of compensation from any source which he is allowed to retain cannot exceed Three Thousand Seven Hundred and Fifty Dollars (\$3,750.00) per year."

In view of the foregoing it is the opinion of this department that Senate Bill No. 123, supra, authorizes the Commissioners' Court, when in their judgment the financial condition of the county and the needs of the officers justify the increase, to enter an order raising the maximum compensation allowed by law to an amount not to exceed 25% of the sum allowed for the fiscal year of 1944. In other words, it allows the Commissioners' Court to raise by 25% the maximum amount

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of compensation from any source which he is allowed to retain. The 1/3 excess fees provided for by Article 3891 is included in the maximum.

Stated another way, no change in the manner and method of computing the total fees and compensation to be allowed such officers was made by Senate Bill No. 123, but it only raised the maximum amount allowed by 25%.

Yours very truly,

ATTORNEY GENERAL OF TEXAS

By

J. C. Davis, Jr.
J. C. Davis, Jr.
Assistant

By

John Reeves
John Reeves

JR:LJ

APPROVED JUL 7 1945
Carl Foley
FIRST ASSISTANT
ATTORNEY GENERAL

